



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

285

CRM-M-39557-2024 (O&M)

Date of Decision: 11.09.2024

KULWANT SINGH

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Rajeev K. Kapila, Advocate for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, prayer is made for grant of pre-arrest bail to the petitioner in case arising out of FIR No. 197 dated 06.10.2020, under Sections 365, 342, 323, 506, 148, 149 IPC and Offence under Section 201 IPC added later on registered at Police Station Sadar Batala, District Gurdaspur on the basis of statement recorded by the complainant-Kuldeep Singh on 03.10.2020 alleging therein that he was a driver by profession and used his Fortuner Vehicle bearing No.PB-47-AC-0234 as a taxi. On 01.10.2020, at about 10.30 AM, the accused-Mewa Singh had hired his taxi for the purpose of going to Fatehgarh Churian and on that pretext, he took him to village Malleawal, Amritsar where co-accused Piara Singh, Kulwant Singh and 10/15 unknown persons were found present. The unknown persons were having covered faces and were armed with pistols and datars. The petitioner and co-accused raised a demand of Rs.80-90 lakhs from him by saying that they had paid that money to the complainant for



sending people abroad. The complainant told them that he had not received any such money and on hearing so, all of them assaulted the complainant while proclaiming that they would kill him. He was kept confined at Village Mallianwal and was tied with a iron chain and was extended beatings. On 02.10.2020, he was again taken by the co-accused Piara Singh, Mewa Singh and Kulwant Singh alongwith others to village Baehluwal at the Dera of some acquaintance of Piara Singh and was kept confined there. Then on 03.10.2020, the accused persons took him to Khadoor Sahib wherein he was forced to write that he had sold his car and was also made to sign some stamp papers under threat of his life. The complainant alleged that the accused Piara Singh had duped him of a sum of Rs.6,50,000/- previously and got a case registered against him. He had come to know that accused Piara Singh and Mewa Singh were relatives. By alleging that both of them in connivance with each other and by forming membership of an unlawful assembly with the co-accused, had physically assaulted him, abducted him criminally intimidated him and that the accused Piara Singh had taken the vehicle of ownership of his vehicle, insurance policy and permit etc. and released him by asking him to bring two cheques from his house, he prayed for taking penal action.

2. After registration of FIR, investigation proceedings were initiated. The co-accused Piara Singh and Bikramjit Singh were arrested. The co-accused Mewa Singh and Amarbir Singh joined investigation after seeking concession of pre-arrest bail. The petitioner and one person with the same name i.e. Kulwant Singh son of Darshan Singh were also nominated as



an accused. However, the above said Kulwant Singh son of Darshan Singh was found innocent. No action was taken against the petitioner and challan was presented before the concerned Court by keeping the name of the present petitioner in challan report. It is only later on that the investigating agency had tried to arrest him. Apprehending his arrest, the petitioner moved an application for anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Gurdaspur vide order dated 20.01.2023.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The co-accused Mewa and Amarbir Singh were extended benefit of pre-arrest bail. The investigating agency never tried to join him into the investigation of the case. He never received any summons or warrants from the police. Challan had been presented in the year 2021 against the co-accused by keeping his name in column no.2. He had never been declared a proclaimed person. He is ready to join the investigation. No recovery is to be effected from him. His custodial interrogation is not required. Only four injuries were found on the person of the victim which have not been attributed to him. There is unexplained delay in lodging of the FIR. His detention would not serve any purpose. Therefore, it is urged that he deserves to be extended benefit of pre arrest bail.

4. Status report has been filed by respondent-State. It is submitted therein and learned State counsel has argued that the petitioner was named in the FIR. Two of the co-accused i.e. Kulwant Singh son of Darshan Singh and Punjab Singh were found to be innocent and their names were kept in column no.2 of the challan report. It has been admitted that the name of the



present petitioner was also kept in column no.2 and he had not been challaned. It is submitted in the reply that supplementary report would be filed against the petitioner upon conducting investigation qua the role played by him in commission of the offences alleged in the FIR. It is submitted that non-bailable warrants were issued against the accused for 02.12.2020, but not thereafter. It is, however, urged that no exceptional circumstance has been made out for grant of anticipatory bail and hence, the petition is liable to be dismissed.

5. I have heard counsel for both the parties and have gone through the record.

6. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly, the victim is alleged to have been abducted, wrongfully confined, physically assaulted and criminally intimidated by them. The co-accused Mewa Singh who was alleged to be the main culprit had been extended benefit of pre-arrest bail. No doubt in the FIR, the name of the petitioner had been mentioned. However, no efforts were made by the investigating agency to arrest him for a period of four years. No specific overt act has been attributed to him. Though as per as alleged in the FIR, the complainant had been assaulted by 10-15 unknown person, co-accused Piara Singh and the petitioner, however, as per medico-legal-report, the petitioner had made complaint of pain in four different parts of his body but no injury was found on his person. There is also delay in



reporting the matter to the police which does not appear to have been satisfactory explained.

7. In view of the facts and circumstances as discussed above but without meaning to make any comments on the merits of the case, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his surrendering before the Investigating/Arresting Officer within a period of 10 days from today and subject to furnishing personal/surety bonds to his/her satisfaction.

11.09.2024

Deepak Patwal

(MANISHA BATRA)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No